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APHC010197212024



**IN THE HIGH COURT OF ANDHRA PRADESH  
AT AMARAVATI  
(Special Original Jurisdiction)**

**[3330]**

MONDAY, THE 1<sup>st</sup> DAY OF JUNE 2026

**PRESENT**

**THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO**

**WRIT PETITION NO: 9754/2024**

**Between:**

- 1.CALVARI TEMPLE FOUNDATION, REP. BY ITS SECRETARY,  
R/o. D.NO. 18-6-35/A, KADARESWARA PETA VIJAYAWADA,  
KRISHNA DISTRICT.
- 2.M/s.CALVARI TEMPLE FOUNDATION, AT SY.No.77,  
HAFEEZPET, HYDERABAD TELANGANA, AUTHORISED  
PERSON SR P.L. ENOCH, S/o. SRI P. SAMUEL LAZARUS,  
TREASURER, R/o. 5-2-11, RAMALAYAM ROAD, KUKATPALLI,  
HYDERABAD -72

**...PETITIONER(S)**

**AND**

- 1.THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL  
SECRETARY, REVENUE DEPARTMENT SECRATERIAT,  
VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.
- 2.THE COMMISSIONER OF ENDOWMENTS, GOVT OF ANDHRA  
PRADESH, VIJAYAWADA, KRISHNA DISTRICT.
- 3.THE ASSISTANT COMMISSIONER OF ENDOWMENTS,  
KURNOOL, KURNOOL DISTRICT.

- 4.THE DISTRICT COLLECTOR, KURNOOL DISTRICT, KURNOOL.
- 5.THE REVENUE DIVISIONAL OFFICER, KURNOOL REVENUE DIVISION, KURNOOL, A.P.,
- 6.THE TAHSILDAR, KURNOOL RURAL MANDAL, KURNOOL, KURNOOL DISTRICT.
- 7.SRI ANJANEYA SWAMY TEMPLE, REP. BY ITS MANAGING TRUSTEE, VENKAYAPALLI H/O. RUDRAVARAM KURNOOL, KURNOOL DISTRICT.
- 8.SRI VIGNESWARASWAMI SWAMY TEMPLE, REP. BY ITS MANAGING TRUSTEE, VENKAYAPALLI H/O. RUDRAVARAM KURNOOL, KURNOOL DISTRICT.
- 9.THE ANDHRA PRADESH ENDOWMENT TRIBUNAL, PEDDA KAKANI, AMARAVATI, GUNTUR DISTIRCT. REP. BY ITS PRESIDING OFFICER / REGISTER.

**...RESPONDENT(S):**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue order, direction. Writ more particularly one in the nature of writ of PROHIBITION prohibiting the 8th Respondent to proceed with the O.A.No.246/2019 on the file of Endowment Tribunal at Peddakakani, Guntur District as there is no Jurisdiction to entertain the O.A Under the Provision of AP Charitable and Endowment Act, and barred by Res-Judicata and without any jurisdiction and consequently set aside the proceedings in O.A.No.246/2019 on the file of Endowment Tribunal at Peddakakani, Guntur District and pass such other order or orders.

**IA No: 1 OF 2025**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased grant leave for filing of this Counter Affidavit dated 24.11.2024 in W.P.No. 9754 of 2024 , in the interest of justice.

**Counsel for the Petitioner(S):**

1.MSVS SUDHA RANI

**Counsel for the Respondent(S):**

1.GP FOR REVENUE

2.G RAMANA RAO (SC FOR ENDOWMENTS  
RAYALASEEMAREGION)

3.G RAMANA RAO

4.GP FOR ENDOWMENTS

**The Court made the following:**

**THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO**

**WRIT PETITION No.9754 of 2024**

**ORDER:**

The present Writ Petition is filed under Article 226 of the Constitution of India for the following relief:

“to issue order, direction Writ more particularly one in the nature of writ of PROHIBITION prohibiting the 8<sup>th</sup> Respondent to proceed with the O.A. No.246/2019 on the file of Endowment Tribunal at Peddakakani, Guntur District as there is no Jurisdiction to entertain the O.A. under the provision of AP Charitable and Endowment Act, and barred by *Res-Judicata* and without any jurisdiction and consequentially prayed to set aside the O.A. No.246/2019 on the file of Endowment Tribunal at Peddakakani, Guntur District and for such other order or orders....”

2. The 3<sup>rd</sup> respondent filed original application No.246 of 2019' hereinafter referred to as 'O.A., on the file of the A.P. Endowments Tribunal, herein after referred as 'Tribunal', seeking a declaration that the O.A. scheduled property as endowed property belonging to Sri Anjaneya Swamy Temple, hereinafter refer as “the temple”, asserting that the temple is the religious institution published under Section 6(1)(ii) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowment Act 30 of 1987, hereinafter referred to as “Act 30 of 1987” and the said temple is having agricultural land in survey No.161/A to an extent of Ac. 6-85 cents situated at

Rudravaram village of Kurnool District and the said land was recorded in the RSR and the said land is being managed by Sri Khadarabada Vighneswara Swamy Temple, Rudravaram village, Kurnool District, represented by its Executive Manager and further the inam register maintained by the revenue authorities for the year 1310 Fasli was shown Sri Vighneswara Swamy as pattadar and in 1 Namoon register which is a Revenue Record, the name of the temple was recorded in the columns maintained by the revenue authorities and at column No.9 one Sri Balaiah was shown as possessor and at column No.11 as Poojari. And the 1<sup>st</sup> applicant came to know that the Poojari leased out the land to the third parties for cultivation as they are unable to do the same, when the poojari left the temple, the land has become vacant. The respondents in the O.A. No.246 of 2019, tried to grab the scheduled property and to construct a Church in the temple land by encroaching upon the property and it is stated that as per the entries in the RSR and in the Revenue Record, the RSR pertaining to Survey No.161/A *prima facie* establishes proof of title. And further stated that 1B register discloses that the property was in occupation of the Poojari.

3. Hence, the O.A. is filed to declare the 2<sup>nd</sup> applicant-Khadarabada Vighneswara Swamy Temple is title holder of the property. The said O.A. was filed in the year 2019, now the present Writ of Prohibition is

filed that the Tribunal has no jurisdiction to entertain the O.A. under the provisions of the Act No.30 of 1987 and the O.A., is barred by principles of *res judicata* and without any jurisdiction and consequently prayed to set aside the proceedings in O.A. No.246 of 2019 pending on the file of the Tribunal.

4. The present Writ of Prohibition is filed to set aside the O.A. No.246 of 2019 on the file of the Tribunal on the grounds that the petitioners have purchased the property on behalf of the M/s. Calvari Temple Foundation through e-auction conducted by the State Bank of India under the SARFAESI Act in respect of the property covered in Survey No.161/A an extent of Ac.4.04 ½ cents situated at Venkayapalli H/o. Rudraram village, Kurnool District, and the authorized officer issued sale certificate in favour of the petitioner on 14.06.2019 and possession was delivered to the petitioner and further asserted in the affidavit filed in support of the Writ Petition that the scheduled property belongs to J. Balayya who got Ryotwari Pattas from Inam Deputy Tahsildar in respect of the said lands covered in different survey numbers including survey No.161/A total extent of Ac.6.68 cents situated at Venkayapalli H/o. Rudraram Village, Kurnool District. As per the fair Register of 1860 Inam, one Sri Tippanna was in possession of an extent of Ac.14.84 cents in Sy.No.161/A & C, 169 and 193/A&C of Venkapalle village, H/o Rudraram village. Thereafter, one Veeramma

relinquished her interest in the land through register document dated 23.08.1918 in favour of Vusamma (Busamma) who is the wife of Sankarappa who was an Archaka of the temple. The said Sankarappa mortgaged the land on 02.07.1922 and later again on 12.06.1929. The said Vusamma @ Busamma was survived by her daughter Smt. Sivamma who is the mother of Balayya and the said Sivamma paid the tax to the concerned authorities between 1942-1969. After due enquiry, the Revenue Divisional Officer directed the Inam Deputy Tahsildar vide proceedings 4649 of 1977 dated 14.04.1978 to issue Ryotwari Patta in favour of J Balayya as it was held that he is in possession and enjoyment of the scheduled land. After death of J. Balayya, his wife J. Devamma sold the property in favour of V. Naveen S/o. V. Rambupal Chowdary through the register document No.3891 of 2004, dated 15.04.2004. Thereafter, V. Naveen with an intention to sell the property submitted a sale deed for registration, but the Sub Registrar, Kurnool has rejected to register the said document on the ground that the land is recorded as government land. Further stated that one Sri K. Rama Chandra Reddy who is trustee of the Anjaneyaswamy Temple filed Writ Petition No.3150 of 1978 before the erstwhile High Court of Andhra Pradesh challenging the orders of the RDO issued vide proceedings No.4649 of 1977 dated 14.04.1978. The High Court after hearing both sides, dismissed the Writ Petition on 07.12.1982 and

confirmed the orders of the RDO and declared that J. Balayya is the absolute owner of the subject property. After demise of J. Balayya, his legal heirs sold the property to one Naveen through registered document bearing No.3930 of 2004, dated 15.04.2004, accordingly, patta was granted in favour of Sri V. Naveen, by the then Mandal Revenue Officer, Kurnool.

5. Thereafter, the said Naveen also sold the property in favour of Smt. Alle Prabhavathi, W/o. Alle Balla Nagi Reddy through register documents an extent of Ac.2.00 cents out of Ac.4.04 ½ cents through register document No.5498/2010 dated 06.06.2010, the remaining land an extent of Ac.2.04 ½ cents to Sri Alle Venkata Jaya Kumar Reddy S/o. Alle Balla Nagi Reddy through register document No.5499 of 2010 dated 06.06.2010. While so, one Pinakini Power Project (P) Limited availed loan from State Bank of India by hypothecating its immovable properties and the purchasers of the aforesaid property i.e. Smt. Alle Prabha Nagireddy and Alle Venkata Jaya Kumar Reddy stood as security for the loan availed. Later, the Pinakini Power Project (P) Limited failed to discharge their loan, the banking authorities have invoked the SARFAESI Act, approached the DRT Hyderabad for auction of the properties and the 2<sup>nd</sup> petitioner-Calvary temple has participated in the auction and declared as successful bidder and obtained sale certificate in favour of the petitioner temple on 14.06.2019

and thereafter, the petitioners are in the peaceful possession and enjoyment of the property since the date of sale certificate dated 14.06.2019. As such, the petitioners stated that as per the orders in W.P. No.3150 of 1978, the O.A. No.246 of 2019 on the file of the Tribunal is liable to be set aside as the 7<sup>th</sup> and 8<sup>th</sup> respondent temples suppressing the real facts wantonly mislead the Tribunal and claimed the title on the basis of RSR, hence, the property is treated as private land and prayed to issue writ of prohibition and to set aside the O.A. No.246 of 2019, on the file of the Tribunal.

6. Heard, Sri K. A. Narasimha, learned argued counsel for the counsel on record Smt. M.S.V.S. Sudha Rani for writ petitioners and Sri Nagaraju Nagooru, learned Government Pleader for Endowments.

7. Learned counsel Sri K.A. Narasimha, submitted that in the light of the contentions raised in the preceding paragraphs, the respondents have filed a frivolous and vexatious case, relying upon the judgments of the Hon'ble Apex Court, in the case of ***T. Arivandandam v. T.V. Satyapal and another***<sup>1</sup>, His Lordship Justice V.R. Krishna Iyer in the prefatory paragraph of the judgment it is observed that "*The pathology of litigative addiction ruins the poor of this country and the Bar has a role to cure this deleterious tendency of parties to launch frivolous and vexatious cases.*" And argued that the present writ

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<sup>1</sup> (1977) 4 SCC 467

petition is also frivolous and vexatious case basing on the narration of the facts referred supra.

8. Learned counsel also relied on the judgment of the Hon'ble Apex Court in ***Pawan Garg and others v. South Delhi Municipal Corporation***<sup>2</sup> for the proposition that mere entry in the list of properties maintained by the authorities, cannot, by itself, constitute a valid proof of title over the subject land. Undisputedly, the RSR constitutes *prima facie* title over the land. As per the RSR, the land in Survey No.161/A is temple land and the 43 register of the Act 30 of 1987 shows the land is endowment property.

9. The counsel also places reliance of the order in W.P. No.30526 of 2012 and Batch in the case of ***Raavi Satish v. State of Andhra Pradesh and others*** and relied the observance of the learned Single Judge. The learned Single Judge in the order has observed in the following: *"Even though the law is well settled on several aspects, the Registering authorities have been again and again raising the same objections for registration of the properties which were earlier rejected by this court, as the spate of the litigation was continuing unabated."*

10. And also relied on the order in W.P. No.23856 of 2020 in the case of ***Mopuri Hemavathi v. State of Andhra Pradesh*** for the proposition that mere cryptic description of the entry in R.S.R. it

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<sup>2</sup> 2026 SCC OnLine SC 644

cannot be concluded that the subject property is an Endowment property. Without showing that the said property was registered as endowment property in the register maintained under the Act 30 of 1987. On the aforesaid facts and law, learned arguing counsel for the petitioner has vehemently argued and prayed to allow the Writ of Prohibition.

11. And also relied on the judgment of the Hon'ble Apex Court in the case of ***Tukaram Kana Joshi and others v. Maharashtra Industrial Development***<sup>3</sup> wherein it is held that right to property is available under Article 300A of the Constitution of India, deprivation of property by authority of law and no citizen should be deprived of the property without authority of law and also relied on the judgment of the Hon'ble Apex Court in the ***State of Haryana v. Mukesh Kumar and others***<sup>4</sup> for the very same proposition.

12. On the other hand the 8<sup>th</sup> respondent has filed counter affidavit and denied all the averments made in the affidavit filed in support of the writ petition *inter alia* it is stated that the subject property of the writ petition was included in the register prepared under Section 43 of Act, 1987 and the 3<sup>rd</sup> respondent issued certificate vide R.Dis No.A6/3080/2020 Revenue dated 28.08.2021 and subject property was

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<sup>3</sup> (2013) 1 SCC 353

<sup>4</sup> (2011) 10 SCC 404

also included in the prohibited list of properties under Section 22(A) (1)(C) of Registration Act, 1908. And the application filed by the temple before the Tribunal is valid and legal. Once, any land is included in the register prepared under Section 43 of Act 30 of 1987 and under Section 45 of Act 30 of 1987, an application should be made in this regard to make an entry in register of the Endowments Tribunal under Section 46(3) of Act, 30 of 1987. It shall, until the contrary established, be presumed that all particulars entered in the register maintained under Section 43 are genuine, and also places reliance on the order in W.P. (PIL) No.30 of 2021. For deletion of entry in the register of properties under Section 43 of the Act 30 of 1987, has to approach the Endowments Tribunal under Section 45 and 47 of the Act 30 of 1987 and also relied on the order and judgment in W.A. No.888 of 2022 and batch, dated 23.09.2023 for the very same proposition.

13. In order to declare who is the owner of the property, adjudication before the Tribunal is imperative and essential. Hence, prayed to dismiss the Writ Petition.

14. At the outset, it is the primary contention of the learned counsel for the petitioners that the Revenue Divisional Officer in his proceedings No.4693 of 1977, dated 14.04.1978 declared that one Sri J. Balaiah has granted Roytwari Patta and also directed the Inam Deputy Tahsildar to record the same. Against the said

proceedings, a writ petition has been filed before the erstwhile High Court of Andhra Pradesh in W.P. No.3150 of 1978 and the said Writ Petition came to be dismissed vide order dated 07.12.1982 and the order of the Revenue Divisional Officer has attained finality and it has been upheld by the erstwhile High Court of Andhra Pradesh. Subsequently a Ryotwari patta was granted in favour of Sri J. Balaiah. And also further argued that RSR is not a basis to include the subject property in endowment property and adjudication on this issue by the Tribunal is unwarranted and prayed to allow the Writ Petition by quashing the proceedings in O.A. No.246 of 2019 on the file of the Tribunal.

15. Basing upon the above contentions raised by the both the counsel for the petitioners and respondents after giving my thoughtful consideration the court give the following exposition

16. The relief of prohibition can be granted only (i) when inferior Court or Tribunal proceeds to act without or excess of jurisdiction. ii) Proceeds to act under law which itself ultra vires or unconstitutional iii) Proceeds to act in violation of the rules of natural justice or iv) proceeds to act in contravention of fundamental rights. The principles, which govern the exercise of such power, must be strictly observed. *A writ of prohibition must be issued only in rarest of rare cases. Judicial discipline of the highest order has to*

*be exercised whilst issuing such writs. The writ jurisdiction is original jurisdiction distinct from appellate jurisdiction. An appeal cannot be allowed to be disguised in the form of a writ. In other words, this power cannot be allowed to be used “as a cloak of an appeal in disguise”. Lax use of such a power would impair the dignity and integrity of the subordinate court and could also leads to chaotic consequences. See the Judgment of Apex Court in the case of **Thirumala Tirupati Devasthanams and another vs. Thallappaka Ananthacharyulu and others**<sup>5</sup>.*

17. The Supreme Court in the case of **Narayana Chetty vs The Income Tax Officer**<sup>6</sup> held that writ of prohibition is primarily proves to supervision his exercise of jurisdiction of the court is the lack of jurisdiction must be apparent on the face of record for the issuance of writ record. If there is complete absence of jurisdiction in the Court. If it is required any further inspection either on the government of the writ of prohibition needs to be refused.

18. The Hon'ble Apex Court, in the case of **JACKY v. TINY alias Antony and others**<sup>7</sup>, held as follows:

*“A petition under Article 226 or Article 227 of the Constitution can neither be entertained to decide the*

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<sup>5</sup> (2003) 8 SCC134

<sup>6</sup> AIR 1959 SC 213

<sup>7</sup> (2014) 6 SCC 508

*landlord-tenant dispute nor is it maintainable against a private individual to determine an intense dispute including the question whether one party is harassing the other party. The High Court under Article 227 has the jurisdiction to ensure that all subordinate courts as well as statutory or quasi judicial tribunals, exercise the powers vested in them within the bounds of their authority but it was not the case of Respondent 1 tenant that the order passed by the trial court was without any jurisdiction or was so exercised exceeding its jurisdiction. If a suit is not maintainable it was well within the jurisdiction of the High Court to decide the same in appropriate proceedings but in no case power under Articles 226 and 227 of the Constitution can be exercised to question a plaint.*

19. Admittedly, in the present case, there are disputed facts involved, and it is not the case of the writ petitioners that the Tribunal has no jurisdiction to entertain the Original Application (OA). The petitioners are seeking the relief to quash the O.A., by applying the principles of *res judicata*. Under Section 11 of CPC that no Court shall try any suit or issue in which the matter directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court. Even to invoke Section 11

CPC, evidence has to be adduced. Hence, on this ground also, the Writ Petition is liable to be dismissed.

20. With respect to plea of *res judicata*, it requires evidence to be let in, in order to substantiate, that the judgment in the previous suit or proceedings is barred from trying the same issue, which has already been tried by the competent jurisdiction on an earlier occasion. When there are triable issues, the issuance of writ of prohibition on the principle of *res judicata* does not arise.

21. On perusal of entire material filed in support of the writ petition, it appears that the petitioners herein filed application under Order VII Rule 11 CPC for rejection of the Original Application (OA), which is pending before the Tribunal. It is not the case of the writ petitioners that the Tribunal has no jurisdiction to entertain Original Application in view of the law laid down by the Hon'ble Apex Court in the above quoted Judgment, this Court cannot exercise jurisdiction of prohibition to quash the proceedings in O.A. No.246 of 2019, on the file of the Endowment Tribunal.

22. The above referred judgments of the Hon'ble Apex Court are squarely applicable to the facts of the present case. Even assuming that a writ of prohibition cannot be issued and the present OA cannot be quashed by exercising jurisdiction under Article 226 and under 227 of

the Constitution of India. The dispute has to be decided by the competent forum between the private parties, and not by this Court under Article 226 of the Constitution of India.

23. For the aforesaid reasons, this Court is not inclined to interfere with the proceedings before the Tribunal and to quash the proceedings at this stage. It has to be decided by the tribunal. Therefore, this Court need not to effect quash proceedings at this stage, as it is not the case of the petitioners that the Tribunal is exercising without any jurisdiction or it extending its jurisdiction. Hence, the Writ Petition sans merit.

24. Accordingly, the Writ Petition is dismissed. No order as to costs.

As a sequel, interlocutory applications, if any, pending in this writ petition shall stand closed.

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**JUSTICE TARLADA RAJASEKHAR RAO**

Date: 01.07.2026

Harin

**3****THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO****W.P.No. 9754 OF 2024****Date: 01-07-2026**

Harin

Whether the order is:

|            |  |                |  |
|------------|--|----------------|--|
| Speaking   |  | Reasoned       |  |
| Reportable |  | Non-reportable |  |